

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

MARÍA PIÑA-FIGUEROA,

Plaintiff,

v.

HOSPITAL METROPOLITANO DR.
SUSONI, et al.,

Defendants.

Civil No. 08-1373 (JAF)

OPINION AND ORDER

Plaintiff María Piña-Figueroa brings this action against Defendants Hospital Metropolitano Dr. Susoni ("Metropolitano"), Continental Casualty Company ("Continental"), AMCARE Medical Emergency, Inc. ("AMCARE"), Drs. Emilio Jiménez-Arocho ("Jiménez"), Samuel Rivera-Natal, María Torres, Zsolt Nagy-Cziberre ("Nagy"), Carlos Montalvo-Bonilla ("Montalvo"), Manuel Somohano, and Franqui, and unknown individuals, conjugal partnerships and insurance companies. Docket No. 8. Plaintiff accuses Metropolitano of violating the Emergency Medical Treatment and Active Labor Act ("EMTALA"), 42 U.S.C. § 1395dd, and charges all Defendants with tortious conduct under Puerto Rico law, 31 L.P.R.A. § 5141 (1990). Id. Defendants Metropolitano and Continental ("Movants") move for summary judgment, Docket No. 37; Plaintiff opposes, Docket No. 52.

I.

Factual and Procedural Synopsis

We derive the following facts from Movants' statement of uncontested facts, Plaintiff's reply thereto, and Plaintiff's

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1 admissions at the pre-trial conference. See Docket Nos. 37, 52, 60.
2 Plaintiff's late husband, Luis Martínez-Velázquez ("Decedent"), was
3 admitted to Metropolitano at four o'clock in the morning of April 2,
4 2007, for vomiting blood. Decedent had a medical history of diabetes
5 mellitus, hepatitis C, and esophageal varices.

6 Forty minutes after Decedent's admission, Dr. Jiménez made a
7 provisional diagnosis of upper gastrointestinal bleeding, ruling out
8 melena. Dr. Jiménez placed several orders for treatment and
9 laboratory tests. Three hours later, he reevaluated Decedent and
10 recorded that Decedent's condition was stable, pending laboratory
11 results, and took Decedent's vital signs. Later in the afternoon that
12 day, Dr. Torres arranged to transfer Decedent to another institution,
13 because no gastroenterologist was available at Metropolitano to treat
14 Decedent fully. Plaintiff consented to the proposed transfer. Just
15 before six o'clock that evening, Doctor's Center Hospital in Manatí
16 accepted Decedent.

17 While awaiting Decedent's transfer to the hospital in Manatí,
18 Metropolitano and its medical staff provided Decedent with continuous
19 medical attention. Metropolitano's doctors and nurses observed
20 Decedent at 2:25 p.m., 3:30 p.m., 5:45 p.m., and 8:30 p.m., on the
21 day of admission, and at 5:10 a.m., 6:05 a.m., 6:30 a.m., 7:15 a.m.,
22 8:00 a.m., and 9:00 a.m., the following morning. Metropolitano's
23 staff treated Decedent at 3:00 p.m. and 8:30 p.m., on the day of
24 admission, and at 12:30 a.m., 2:00 a.m., and 6:00 a.m., the following
25 morning. Metropolitano admitted Decedent into its intensive care unit

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1 ("ICU") after 7:15 a.m. on the second day, upon Dr. Somohano's
2 diagnosis of Decedent's hypovolemic shock, acute respiratory failure,
3 and UGIB. Finally, Decedent suffered cardiorespiratory arrest at
4 9:06 a.m. on the second day, and was pronounced dead at 9:30 a.m.

5 The record and admissions clearly establish that Metropolitanano
6 never intended to "dump" the Decedent. Decedent was medically insured
7 and there was no reason, other than the unavailability of a
8 gastroenterologist, to transfer the patient to another institution.
9 The record clearly establishes that Decedent's family consented to
10 the transfer for the benefit of the patient. Decedent died before the
11 transfer could be carried out.

12 Plaintiff commenced this action on March 28, 2008. Docket No. 1.
13 On March 27, 2009, Movants moved for summary judgment per Federal
14 Rule of Civil Procedure 56(c). Docket No. 37. On April 1, 2009,
15 Defendant Jiménez moved for dismissal for failure to state a claim
16 and want of supplemental jurisdiction, Docket No. 38, which
17 Defendants Nagy, Torres, Somohano, AM CARE, and Montalvo subsequently
18 joined, Docket Nos. 43, 46, 47, 49, 55. Plaintiff opposed both
19 motions on April 15, 2009. Docket No. 52. We conducted a pre-trial
20 conference on April 22, 2009. Docket No. 60.

21 II.

22 Summary Judgment Under Rule 56(c)

23 We grant a motion for summary judgment "if the pleadings, the
24 discovery and disclosure materials on file, and any affidavits show
25 that there is no genuine issue as to any material fact and the movant

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1 is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c).
2 A factual dispute is "genuine" if it could be resolved in favor of
3 either party, and "material" if it potentially affects the outcome of
4 the case. Calero-Cerezo v. U.S. Dep't of Justice, 355 F.3d 6, 19 (1st
5 Cir. 2004).

6 The movant carries the burden of establishing that there is no
7 genuine issue as to any material fact; however, the burden "may be
8 discharged by showing that there is an absence of evidence to support
9 the non-movant's case." Celotex Corp. v. Catrett, 477 U.S. 317, 325,
10 331 (1986). The burden has two components: (1) an initial burden of
11 production, which shifts to the non-movant if satisfied by the
12 movant; and (2) an ultimate burden of persuasion, which always
13 remains on the movant. Id. at 331.

14 In evaluating a motion for summary judgment, we view the record
15 in the light most favorable to the non-movant. Adickes v. S.H. Kress
16 & Co., 398 U.S. 144, 157 (1970). However, the non-movant "may not
17 rely merely on allegations or denials in its own pleading; rather,
18 its response must . . . set out specific facts showing a genuine
19 issue for trial." Fed. R. Civ. P. 56(e)(2).

20 III.

21 Analysis

22 Movants argue that the above facts conclusively establish that
23 Metropolitan is not liable under EMTALA, an "anti-dumping" statute.
24 Docket No. 37. Under EMTALA, a hospital may be liable for discharging
25 a patient from its emergency department without a medical screening.

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1 42 U.S.C. § 1395dd(a), (d) (2). Furthermore, a hospital may be sued
2 for failing to "stabilize [a patient's] medical condition" or
3 properly "transfer . . . the individual to another medical facility"
4 after "the hospital determines that the individual has an emergency
5 medical condition." § 1395dd(b) (1), (d) (2). "An appropriate transfer"
6 is one "in which the transferring hospital provides the medical
7 treatment within its capacity which minimizes the risks to the
8 individual's health," and "the receiving facility . . . has available
9 space and qualified personnel for the treatment." § 1395dd(c) (2). In
10 view of the uncontested and admitted facts in this case, we find no
11 genuine issue of material fact as to Metropolitan's liability under
12 EMTALA. The facts clearly establish that Metropolitan did not
13 violate any of the statutory provisions described herein and is thus
14 entitled to judgment as a matter of law.

15 As we order summary judgment in favor of Metropolitan, no
16 federal claims remain for adjudication, and we decline to exercise
17 supplemental jurisdiction over Plaintiff's associated claims under
18 Puerto Rico law. See 28 U.S.C. § 1367(c) (3); Rivera v. Murphy, 979
19 F.2d 259, 264 (1st Cir. 1992). Lastly, as we dispose of this case
20 under Rule 56(c), we need not address the merits of Jiménez' motion
21 to dismiss. See Docket No. 38.

22 IV.

23 Conclusion

24 Accordingly, we hereby **GRANT** Movants' motion for summary
25 judgment, Docket No. 37. We hereby **DENY** as **MOOT** Jiménez' motion to

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1 dismiss, Docket No. 38. We **DISMISS** Plaintiff's claims under Puerto
2 Rico law **WITHOUT PREJUDICE**; she is at liberty to pursue these claims
3 in an appropriate court of the Commonwealth of Puerto Rico.

4 **IT IS SO ORDERED.**

5 San Juan, Puerto Rico, this 23rd day of April, 2009.

6 s/José Antonio Fusté
7 JOSE ANTONIO FUSTE
8 Chief U.S. District Judge